

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF STEVEN) APPEAL NO. 07-A-2141
KELLER from the decision of the Board of) FINAL DECISION
Equalization of Butte County for tax year 2007.) AND ORDER

AGRICULTURAL EXEMPTION APPEAL

THIS MATTER came on for hearing September 25, 2007, in Arco, Idaho before Board Member David E. Kinghorn. Board Members Lyle R. Cobbs participated in this decision. Appellant Steve Keller appeared at hearing. Assessor Laurie Gamett and Prosecuting Attorney Stephens appeared for Respondent Butte County. This appeal is taken from a decision of the Butte County Board of Equalization denying an agricultural exemption for property described as Parcel No. RP05N26E108404A.

The issue on appeal is whether the subject property qualifies for tax exemption pursuant to Idaho Code § 63-604 as land actively devoted to agriculture.

The decision of the Butte County Board of Equalization is affirmed.

FINDINGS OF FACT

The assessed land value is \$18,150. Appellant requests the land value be reduced to \$8,940 as agricultural land.

The subject property is a seven (7) acre rural parcel located in Butte County.

Appellant argued subject qualified for an agricultural exemption as grazing land. It was noted water conditions on subject vary year to year. Cattle are grazed in years when water is sufficient to support the animals. When water levels are low, the land is grazed by horses. In 2007 subject was grazed by a couple of horses. Appellant referenced a lease agreement to graze horses, but no documentation was provided.

After examining the Agricultural Exemption Determination Form filed by Appellant

concerning subject, Respondent determined subject did not qualify for an agricultural exemption. Respondent noted the form indicated only one (1) horse was grazing on the property and no animals had been sold in the past three (3) years. Respondent did not believe the property was part of a for-profit enterprise or leased to a bona fide lessee, so denied the exemption for the 2007 tax year.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination subject's eligibility for property tax exemption as land actively devoted to agriculture. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Appellant believed subject should be granted an agricultural exemption because there were a couple horses grazing the property. Idaho Code § 63-604 outlines the necessary qualifications for an agricultural exemption, and in pertinent part reads:

Land actively devoted to agriculture defined. – (1) For property tax purposes, land which is actively devoted to agriculture shall be eligible for appraisal, assessment and taxation as agricultural property each year it meets one (1) or more of the following qualifications:

(a) The total area of such land, including the homesite, is more than five (5) contiguous acres, and is actively devoted to agriculture which means . . .

(iii) It is used by the owner for the grazing of livestock to be sold as part of a for-profit enterprise, or is leased by the owner to a bona fide lessee for grazing purposes

. . .

(3) Land utilized for the grazing of a horse or other animals

kept primarily for personal use or pleasure rather than as part of a bona fide for-profit enterprise shall not be considered to be land actively devoted to agriculture. (Emphasis added).

While there was no dispute as to whether at least one horse was grazing on subject, the issue is whether the land was being used as part of a for-profit enterprise.

Appellant referenced a lease with Sharleece & Jared Lambson for the grazing of one horse. No lease agreement was submitted, but in this case it matters little. To qualify for exemption, the statute requires the land be used as part of a for-profit enterprise or leased to a bona fide lessee. Appellant conceded the property is not part of a for-profit enterprise. Similarly, nothing in the record indicates the lessee(s) were using the land in a for-profit enterprise. From the evidence presented, it appears the horse(s) being grazed on the land are kept for personal use; not Appellant's personal use, but the lessee(s)'. Such use does not qualify subject for exemption as land actively devoted to agriculture.

As subject does not qualify for exemption, it must be assessed at market value. See Idaho Code § 63-601.

The Assessor's determination of market value is presumed correct and the burden is on Appellant to prove by a preponderance of the evidence, the valuation is erroneous. *Board of County Comm'rs of Ada County v. Sears, Roebuck & Co.*, 74 Idaho 39, 46-47, 256 P.2d 526, 530 (1953). Appellant provided no market value evidence and thus did not meet the burden of proof necessary to overturn subject's assessment.

For the reasons above, the decision of the Butte County Board of Equalization is affirmed.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments

and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Butte County Board of Equalization concerning the subject parcel be, and the same hereby is, affirmed.

MAILED April 30, 2008